

Order 96-11-25



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the 31st day of October, 1996

Served: December 2, 1996

ALASKA AIRLINES, INC.

AMERICAN AIRLINES, INC.

DELTA AIR LINES, INC.

MIDWAY AIRLINES CORPORATION

for new, amendment, and/or renewal of certificates of
public convenience and necessity of persons,
property, and mail pursuant to 49 U.S.C. 41102 (U.S.-
Mexico)

Dockets OST-95-851
OST-95-953
OST-96-1306
OST-95-296
OST-95-357
OST-96-1664
OST-95-331

ORDER ISSUING CERTIFICATES

Summary

The captioned applicants seek grant, renewal and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code to provide scheduled combination air services between the United States and Mexico.¹ The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified Subpart Q procedure to grant the requested authority.²

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.1705. Each application was summarized in the Federal Register, as cited in the relevant descriptive attachment, and was also summarized in the

¹ Midway has also applied for authority to serve the Raleigh/Durham-St. Maarten market. We will handle that part of Midway's application by separate order.

² 14 CFR 302.1701 et seq. Under Rule 29(b), we may, in our discretion, omit a tentative decision in proceeding under Subpart Q and proceed directly to a final decision.

Department's published weekly list of applications filed. These notices described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. Except as noted in the individual attachments, no answers to these applications were filed.

Public Convenience and Necessity

Except where noted in the appendices, we find that grant or amendment of these certificates is consistent with the public convenience and necessity. All of the services authorized are the subject of, and consistent with, the U.S.-Mexico Air Transport Agreement. The certificates, therefore, are consistent with the agreement and use rights for which the United States has exchanged valuable operating rights. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

Fitness/Citizenship

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Except as noted, each applicant is an operating certificated air carrier, for which the authority at issue here would not constitute a substantial change in operations which would require further review by the Department.³ No information has come to our attention which leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we find each applicant is fit, willing, and able to provide the services authorized.

Terms, Conditions, and Limitations

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. All of the certificate actions taken by this order pertain to limited-entry routes. Therefore, consistent with our established policy in this regard, we have issued temporary, experimental certificates of five years' duration under section 49 U.S.C. 41102 (a)(2).⁴

Pendente Lite Exemptions

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under section 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

³ In its application, Midway proposes to convert certain exemption authority to certificate authority to serve the Raleigh/Durham-Cancun market. In this regard, we have reviewed Midway's proposal, along with certain other information available to the Department, and we have determined that Midway is fit to conduct the air transportation operations authorized here.

⁴ 14 CFR Part 399.120.

Miscellaneous

a. Request for Permanent Authority

Alaska requests, in Docket OST-95-851, that it be granted permanent certificate authority to serve the San Francisco-Mazatlan/Puerto Vallarta and Los Angeles-San Jose del Cabo markets.

We have decided to dismiss Alaska's request for permanent authority. The U.S.-Mexico aviation agreement, while more open than in the past, continues to contain restrictions on entry. Specifically, only one carrier from each country may be designated to serve a given city-pair market. While these restrictions can be lifted on an ad hoc basis in a given case, and while both the United States and Mexico have been forthcoming in doing so in a number of instances, the fact remains that approval for additional carrier services is neither automatic nor guaranteed. In these circumstances, we must continue to regard the U.S.-Mexico routes as limited entry. It is the Department's policy to award temporary certificates to U.S. air carriers on limited-entry international routes.⁵ Alaska has not presented any information to persuade us to change our policy here.

b. Request for Broad Route Integration Authority

Delta requests, in Docket OST-96-1664, that the Department permit Delta the flexibility to combine new certificate authority to serve the Las Vegas-Mexico City market with its other certificate and exemption authority. Similarly, Midway requests, in Docket OST-95-331, that the Department permit Midway the flexibility to integrate and combine new certificate authority to serve the Raleigh/Durham-Cancun/St. Maarten markets with its other routes for which Midway "currently and in the future holds authority."

Consistent with our practice in recent cases, we have decided to grant the requests of Delta and Midway for broad route integration authority. While in the past, it had been the Department's general policy to grant limited requests for route integration authority, the Department has recently examined that policy and decided to grant broader requests subject to conditions with respect to limited entry authority.⁶ We will follow that approach here. We will not, however, grant Midway's request that such route integration authority include all authority that it may hold in the future. It is the Department's policy to grant such authority only with respect to currently held authority. Should Midway seek international route authority in the future it is free to include a request for route integration in that application. Furthermore, we point out, that currently the U.S.-Mexico aviation agreement permits only limited services beyond Mexico with local traffic rights and includes no provisions for blind-sector services beyond Mexico for combination services.

c. Requests for Non-Mexico Markets

⁵ See 14 CFR Part 399.120. See also 51 FR 43180, No. 239, December 1, 1986.

⁶ See, for example Order 91-10-54 at 6 for past general policy and Order 94-11-10 with respect to that policy concerning Mexico. See, Order 96-7-42 for recent conditional awards of broad route integration authority.

Midway requests, in Docket OST-95-331, that the Department grant Midway (1) new certificate authority, for an indefinite term, to serve the Raleigh/Durham-St. Maarten market; and (2) new certificate authority, for a five-year term, to serve the Raleigh/Durham-Cancun market.

We have decided to grant Midway's request for certificate authority to serve the Raleigh/Durham-Cancun market, and to defer action on Midway's request for certificate authority to serve the Raleigh/Durham-St. Maarten market. Because of the dormancy provisions and certain related reporting requirements related to U.S.-Mexico certificate authority, we will handle Midway's request for St. Maarten certificate authority by separate order.

Findings and Conclusions

In view of the foregoing, and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to amend or issue each applicant a certificate in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing, and able to perform properly the foreign air transportation described in the attached certificate and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions, and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;
4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not constitute a "major regulatory action" under the Energy, Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department's regulations;⁷ and
5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

⁷ Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

ACCORDINGLY,

1. We amend, issue, or reissue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;
2. The certificates and certificate amendments will be effective 30 days after the service date of this order, subject to the extension of those effective dates in accordance with the provision of the certificate and certificate amendments;
3. We defer action on the application of Midway Airlines Corporation, in Docket OST-95-331, to the extent that the carrier requests certificate authority to serve the Raleigh/Durham-St. Maarten market;
4. We dismiss, without prejudice, the application of Alaska Airlines, Inc., in Docket OST-95-851, to the extent the carrier requests permanent certificate authority;
5. We deny, as discussed in the text of this order, the application of Midway Airlines Corporation, in Docket OST-95-331, to the extent that the carrier requests to integrate the Mexico authority awarded here with future awards of underlying economic authority in other markets;
6. To the extent not granted, deferred, dismissed, or denied, we deny all motions and requests in these dockets;
7. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597
and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;⁸ and

⁸ This order was submitted for section 41307 review on October 31, 1996. On November 25, 1996, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's order.

8. We will serve this order on the persons listed in the attached service list, which includes the applicants, the Ambassador in Washington, D.C. of Mexico, other parties in these dockets, the U.S. Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this order is available on the World Wide Web at
<http://www.dot.gov/general/orders/aviation.html>*

SUMMARY OF U.S.-MEXICO CERTIFICATE APPLICATIONS

CARRIER AND DKT. #	CERTIFICATE RENEWAL REQUESTS	NEW/AMENDED AUTHORITY REQUESTS	AUTHORITY GRANTED BY THIS ORDER	DISMISSED/ DEFERRED/DENIED
Alaska OST-95-851		San Francisco-Mazatlan/ Puerto Vallarta and Los Angeles-San Jose del Cabo (requests permanent authority)	San Francisco-Mazatlan/ Puerto Vallarta and Los Angeles-San Jose del Cabo (five years)	Dismissed request for permanent authority.
Alaska OST-95-953		Seattle-Puerto Vallarta/ Mazatlan	Seattle-Puerto Vallarta/ Mazatlan	
Alaska OST-96-1306	Los Angeles-Puerto Vallarta/Mazatlan, San Francisco-San Jose del Cabo, San Diego-San Jose del Cabo		Los Angeles-Puerto Vallarta/Mazatlan, San Jose del Cabo, San Diego-San Jose del Cabo	
American OST-95-296	Miami-Mexico City		Miami-Mexico City	
American OST-95-357	Miami-Cancun		Miami-Cancun	
Delta OST-96-1664		Las Vegas-Mexico City (plus integration authority to combine this w/existing Delta certificate and exemption authority)	Las Vegas-Mexico City, plus integration authority	
Midway OST-95-331		Raleigh/Durham-St. Maarten, Raleigh/Durham-Cancun (plus integration authority to combine this with existing and future Midway authority)	Raleigh/Durham-Cancun, plus integration authority to combine with existing Midway authority	Deferred Raleigh/Durham-St. Maarten (to be handled by separate order). Denied request for route integration authority with future awards

Alaska Airlines, Inc.

Amendment of Certificate for **Route 559**

Filed: 11/20/95	Docket: OST-95-851	Notice: 60FR (62131) 12/4/95
Filed: 12/20/95	Docket: OST-95-953	Notice: 61FR (214) 1/3/96
Filed: 4/24/96	Docket: OST-96-1306	Notice: 61FR (19973) 5/3/96

I. Authority Sought: Docket OST-95-851: Amendment of certificate to add authority to provide scheduled foreign air transportation of persons, property, and mail between (1) the terminal point San Francisco, California, and the terminal point Mazatlan, Mexico; (2) the terminal point San Francisco, California, and the terminal point Puerto Vallarta, Mexico; and (3) the terminal point Los Angeles, California, and the terminal point San Jose del Cabo, Mexico. Alaska requests that this authority be granted on a permanent basis.

Docket OST-95-953: New certificate authority to provide scheduled foreign air transportation of persons, property, and mail between (1) the terminal point Seattle, Washington, and the terminal point Puerto Vallarta, Mexico; and (2) the terminal point Seattle, Washington, and the terminal point Mazatlan, Mexico.

Docket OST-96-1306: Renewal of certificate to provide scheduled foreign air transportation of persons, property, and mail between (1) the terminal point Los Angeles, California, and the terminal point Puerto Vallarta, Mexico; (2) the terminal point Los Angeles, California, and the terminal point Mazatlan, Mexico; (3) the terminal point San Francisco, California, and the terminal point San Jose del Cabo, Mexico; and (4) the terminal point San Diego, California, and the terminal point San Jose del Cabo, Mexico. *

II. Relevant Currently Held Authority: Alaska currently holds an experimental certificate of public convenience and necessity for Route 559 authorizing combination services in various U.S.-Mexico city-pair markets. Order 92-5-20. In addition, Alaska holds exemption authority to provide scheduled combination service in the San Francisco-Mazatlan/Puerto Vallarta, Los Angeles-San Jose del Cabo, and Seattle-Puerto Vallarta/Mazatlan markets. See Order 96-2-49.

* Alaska also requested a waiver of the 180 day advance filing requirement under Part 377 of the Department's regulations. That request was granted. See Order 96-7-42.

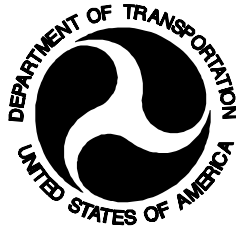
III. Pleadings: No answers were filed to any of Alaska's applications.

IV. Public Convenience and Necessity: The authority granted is consistent with the U.S.-Mexico Air Transport Agreement.

V. Fitness/Citizenship: Alaska has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 96-5-9. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Alaska's fitness to conduct the air transportation operations authorized here.

VI. Terms, Conditions and Limitations: Standard Mexico certificate conditions. (See Order 89-9-36.) We will reissue Alaska's certificate for Route 559 to (1) reflect renewal of Alaska's authority to serve the Los Angeles-Puerto Vallarta/Mazatlan, San Francisco-San Jose del Cabo, and San Diego-San Jose del Cabo markets; (2) add new authority to serve the San Francisco-Mazatlan/Puerto Vallarta, Los Angeles-San Jose del Cabo, and Seattle-Puerto Vallarta/Mazatlan markets; (3) delete dormant certificate authority to serve the San Francisco-Guadalajara, San Jose-Guadalajara, and Los Angeles-Guadalajara markets; (4) delete obsolete terms and conditions; and (5) incorporate new standard terms and conditions applicable to U.S. carrier certificates. As discussed in the text of this order, we will dismiss Alaska's request for permanent authority in Docket OST-95-851.

VII. Duration: Five years. 49 U.S.C. 41102(c).



**Experimental Certificate
of Public Convenience and Necessity
for**

Route 559

(as reissued)

This Certifies That

ALASKA AIRLINES, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 96-11-25
On October 31, 1996
Effective on January 1, 1997**

**Charles A. Hunnicutt
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Alaska Airlines, Inc., for **Route 559**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail over the following U.S.-Mexico route segments:

1. Between the terminal point Los Angeles, California, and the terminal point Puerto Vallarta, Mexico.
2. Between the terminal point Los Angeles, California, and the terminal point Mazatlan, Mexico.
3. Between the terminal point San Francisco, California, and the terminal point San Jose del Cabo, Mexico.
4. Between the terminal point San Diego, California, and the terminal point San Jose del Cabo, Mexico.
5. Between the terminal point San Francisco, California, and the terminal point Mazatlan, Mexico.
6. Between the terminal point San Francisco, California, and the terminal point Puerto Vallarta, Mexico.
7. Between the terminal point Los Angeles, California, and the terminal point San Jose del Cabo, Mexico.

* This certificate, last reissued by Order 92-5-20, is reissued to (1) reflect renewal of Alaska's authority to serve the Los Angeles-Puerto Vallarta/Mazatlan, San Francisco-San Jose del Cabo, and San Diego-San Jose del Cabo markets (formerly segments 7 through 10, respectively); (2) add new authority to serve the San Francisco-Mazatlan/Puerto Vallarta, Los Angeles-San Jose del Cabo, and Seattle-Puerto Vallarta/Mazatlan markets; (3) delete dormant certificate authority to serve the San Francisco-Guadalajara, San Jose-Guadalajara, and Los Angeles-Guadalajara markets (formerly segments 3, 5, and 6, respectively); (4) delete obsolete terms and conditions; and (5) incorporate new standard terms and conditions applicable to U.S. carrier certificates. (Previously numbered route segments 1 and 2 expired under the terms of the certificate on July 13, 1994, and previously numbered route segment 4 expired under the terms of the certificate on December 9, 1994. New authority for these same routes, however, appear on this certificate as segments 5, 6, and 7, respectively.

8. Between the terminal point Seattle, Washington, and the terminal point Puerto Vallarta, Mexico.
9. Between the terminal point Seattle, Washington, and the terminal point Mazatlan, Mexico.

This authority is subject to the following terms, conditions, and limitations:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(7) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(8)(a) The holder may combine services on all segments of this certificate and combine services on this certificate with U.S.-Mexico combination services authorized by other Department of Transportation certificates or exemptions.

(b) The provisions in paragraph 8(a), above, shall not authorize services which would constitute multiple designations on city-pair markets where such multiple designations are not agreed to by the United States and Mexico.

(9) The holder shall file notice with the Department if it discontinues services on a route segment for 90 days or longer. This notice shall be given as soon as the decision to discontinue service (other than seasonally) is made, but in no case later than the 91st day of dormancy. Notices shall be filed in the form of a letter addressed to the U.S. Department of Transportation, U.S. Air Carrier Licensing Division, X-44, 400 Seventh Street, SW, Washington, DC 20590, and shall identify the dormant route segment, the certificate route number, and the date the 90th day of dormancy will or did occur.

(10) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(11) In the event that the holder commences operations for which it was found "fit, willing, and able," and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective January 1, 1997; provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

The authority to serve segments 1 through 9 in this certificate shall continue in effect until January 1, 2002; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.

American Airlines, Inc.

Amendment of Certificate for **Route 560**

Filed: 7/6/95	Docket: OST-95-296	Notice: 60FR (37703) 7/21/95
Filed: 7/27/95	Docket: OST-95-357	Notice: 60FR (40877) 8/10/95

I. Authority Sought: Docket OST-95-296: Renewal of certificate to provide scheduled foreign air transportation of persons, property, and mail between the terminal point Miami, Florida, and the terminal point Mexico City, Mexico.

Docket OST-95-357: Renewal of certificate to provide scheduled foreign air transportation of persons, property, and mail between the terminal point Miami, Florida, and the terminal point Cancun, Mexico.

II. Relevant Currently Held Authority: American currently holds an experimental certificate of public convenience and necessity for Route 560 authorizing combination services in various U.S.-Mexico city-pair markets, including the Miami-Mexico City (segment 5) and Miami-Cancun (segment 7) markets. Order 92-5-20, as amended by Order 94-11-10. Under the terms of the certificate, American's authority expired January 6, 1996, in the Miami-Mexico City market, and January 28, 1996, in the Miami-Cancun market. American filed timely applications for renewal of this authority in accordance with 14 CFR Part 377 of our regulations, and its authority has continued in effect under 5 U.S.C. 558(c) pending action on its renewal applications.

III. Pleadings: No answers were filed to either of American's applications.

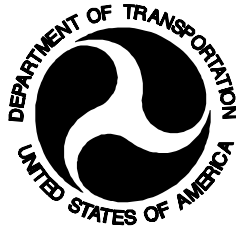
IV. Public Convenience and Necessity: The authority granted is consistent with the U.S.-Mexico Air Transport Agreement.

V. Fitness/Citizenship: American has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C.

See, e.g., Order 96-5-9. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question American's fitness to conduct the air transportation operations authorized here.

VI. Terms, Conditions and Limitations: Standard Mexico certificate conditions. (See Order 89-9-36.) We will reissue American's certificate for Route 560 to (1) reflect renewal of American's authority to serve the Miami-Mexico City/Cancun markets; (2) delete dormant certificate authority to serve the Raleigh/Durham-Cancun and Miami-Cozumel markets; (3) delete obsolete terms and conditions; and (4) incorporate new standard terms and conditions applicable to U.S. carrier certificates.

VII. Duration: Five years. 49 U.S.C. 41102(c).



**Experimental Certificate
of Public Convenience and Necessity
for**

Route 560
(as reissued)
This Certifies That

AMERICAN AIRLINES, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 96-11-25
On October 31, 1996
Effective on January 1, 1997**

**Charles A. Hunnicutt
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

American Airlines, Inc., for **Route 560**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail over the following U.S.-Mexico route segments:

1. Between the terminal point Dallas/Ft. Worth, Texas, and the terminal point Cancun, Mexico.
2. Between the terminal point Dallas/Ft. Worth, Texas, and the terminal point Puerto Vallarta, Mexico.
3. Between the terminal point Dallas/Ft. Worth, Texas, and the terminal point Guadalajara, Mexico.
4. Between the terminal point Miami, Florida, and the terminal point Mexico City, Mexico.
5. Between the terminal point Miami, Florida, and the terminal point Cancun, Mexico.

This authority is subject to the following terms, conditions, and limitations:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

* This certificate, last reissued by Order 92-5-20, and amended by Orders 92-10-58 and 94-11-10, is reissued to (1) reflect renewal of American's authority to serve the Miami-Mexico City/Cancun markets (formerly segments 5 and 7, respectively); (2) delete dormant certificate authority to serve the Raleigh/Durham-Cancun, and Miami-Cozumel markets (formerly segments 1 and 6, respectively); (3) delete obsolete terms and conditions; and (4) incorporate new standard terms and conditions applicable to U.S. carrier certificates.

- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (7) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.
- (8)(a) The holder may combine services on all segments of this certificate and combine services on this certificate with U.S.-Mexico combination services authorized by other Department of Transportation certificates or exemptions.
- (b) The provisions in paragraph 8(a), above, shall not authorize services which would constitute multiple designations on city-pair markets where such multiple designations are not agreed to by the United States and Mexico.

(9) The holder shall file notice with the Department if it discontinues services on a route segment for 90 days or longer. This notice shall be given as soon as the decision to discontinue service (other than seasonally) is made, but in no case later than the 91st day of dormancy. Notices shall be filed in the form of a letter addressed

to the U.S. Department of Transportation, U.S. Air Carrier Licensing Division, X-44, 400 Seventh Street, SW, Washington, DC 20590, and shall identify the dormant route segment, the certificate route number, and the date the 90th day of dormancy will or did occur.

(10) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(11) In the event that the holder commences operations for which it was found “fit, willing, and able,” and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective January 1, 1997; provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

The authority to serve segments 1, 2, and 3, in this certificate shall continue in effect until November 29, 1997; the authority to serve segments 4 and 5 in this certificate shall continue in effect until January 1, 2002; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.

Delta Air Lines, Inc.

Amendment of Certificate for **Route 562**

Filed: 8/23/96

Docket: OST-96-1664

Notice: 61FR (46010) 8/30/96

I. Authority Sought: Amendment of certificate to add authority to provide scheduled foreign air transportation of persons, property, and mail between Las Vegas, Nevada, and Mexico City, Mexico. Delta also requests authority to combine this authority with existing Delta certificate and exemption authority.

II. Relevant Currently Held Authority: Delta currently holds an experimental certificate of public convenience and necessity for Route 562 authorizing combination services in various U.S.-Mexico city-pair markets. Order 92-10-58, as amended by Order 94-11-10. Delta also holds exemption authority to provide scheduled combination service in the Las Vegas-Mexico City market. See Order 96-9-11.

III. Pleadings: No answers were filed to Delta's application.

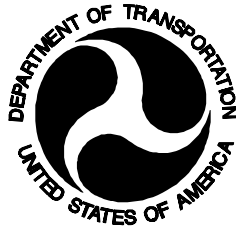
IV. Public Convenience and Necessity: The authority granted is consistent with the U.S.-Mexico Air Transport Agreement. As discussed in the text of this order, consistent with our standard practice to afford carriers the maximum operating flexibility possible, we will grant Delta the authority to integrate its Mexico authority with existing Delta certificate and exemption authority. The route integration authority is subject to the provisions of the aviation agreements between the United States and the foreign countries involved.

V. Fitness/Citizenship: Delta has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 96-5-9. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Delta's fitness to conduct the air transportation operations authorized here.

VI. Terms, Conditions and Limitations: Standard Mexico certificate conditions. (See Order 89-9-36.) We will reissue Delta's certificate for Route 562 to (1) add new authority to serve the Las Vegas-Mexico City market; (2) delete dormant certificate authority to serve the Los Angeles-Zihuatanejo market (formerly segment 5); (3) delete obsolete terms and

conditions; and (4) incorporate new standard terms and conditions applicable to U.S. carrier certificates. We will also add a new standard condition regarding route integration.

VII. Duration: Five years. 49 U.S.C. 41102(c).



**Experimental Certificate
of Public Convenience and Necessity
for**

Route 562

(as reissued)

This Certifies That

DELTA AIR LINES, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 96-11-25

On October 31, 1996

Effective on January 1, 1997

Charles A. Hunnicutt

Assistant Secretary for Aviation

and International Affairs

Terms, Conditions and Limitations

Delta Air Lines, Inc., for **Route 562**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail over the following U.S.-Mexico route segments:

1. Between the terminal point Atlanta, Georgia, and the terminal point Mexico City, Mexico.
2. Between the terminal point Dallas/Ft. Worth, Texas, and the terminal point Mexico City, Mexico.
3. Between the terminal point Los Angeles, California, and the terminal point Mazatlan, Mexico.
4. Between the terminal point Los Angeles, California, and the terminal point Puerto Vallarta, Mexico.
5. Between the terminal point New York, New York/Newark, New Jersey, and the terminal point Mexico City, Mexico.
6. Between the terminal point Orlando, Florida, and the terminal point Mexico City, Mexico.
7. Between the terminal point Las Vegas, Nevada, and the terminal point Mexico City, Mexico.

* This certificate, last reissued by Order 92-10-58, and amended by Order 94-11-10, is reissued to (1) add new authority to serve the Las Vegas-Mexico City market; (2) delete dormant certificate authority to serve the Los Angeles-Zihuatanejo market (formerly segment 5); (3) delete obsolete terms and conditions; and (4) incorporate new standard terms and conditions applicable to U.S. carrier certificates. As discussed in the text of this order, we will grant Delta's request for broad route integration authority in Docket OST-96-1664.

This authority is subject to the following terms, conditions, and limitations:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (7) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.
- (8)(a) The holder may combine services on all segments of this certificate and combine services on this certificate with U.S.-Mexico combination services authorized by other Department of Transportation certificates or exemptions.

- (b) The provisions in paragraph 8(a), above, shall not authorize services which would constitute multiple designations on city-pair markets where such multiple designations are not agreed to by the United States and Mexico.
- (9) The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements; and provided further, that (a) nothing in the award on the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in this certificate by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.
- (10) The holder shall file notice with the Department if it discontinues services on a route segment for 90 days or longer. This notice shall be given as soon as the decision to discontinue service (other than seasonally) is made, but in no case later than the 91st day of dormancy. Notices shall be filed in the form of a letter addressed to the U.S. Department of Transportation, U.S. Air Carrier Licensing Division, X-44, 400 Seventh Street, SW, Washington, DC 20590, and shall identify the dormant route segment, the certificate route number, and the date the 90th day of dormancy will or did occur.
- (11) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(12) In the event that the holder commences operations for which it was found “fit, willing, and able,” and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective January 1, 1997; provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

The authority to serve segments 1 and 2 in this certificate shall continue in effect until December 16, 1999; the authority to serve segments 3, 4, and 6 in this certificate shall continue in effect until November 29, 1997; the authority to serve segment 5 in this certificate shall continue in effect until May 8, 1997; and the authority to serve segment 7 in this certificate shall continue in effect until January 1, 2002; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.

Midway Airlines Corporation

New Certificate

Filed: 7/17/95
7/31/95

Docket: OST-95-331

Notice: 60FR (39068)

I. Authority Sought: New certificate authority to provide scheduled foreign air transportation of persons, property, and mail between (1) the terminal point Raleigh/Durham, North Carolina, and the terminal point St. Maarten, Netherlands Antilles; and (2) the terminal point Raleigh/Durham, North Carolina, and the terminal point Cancun, Mexico. Midway also requests authority to combine this new authority with other authorities held currently by Midway, along with those awarded in the future.

II. Relevant Currently Held Authority: Midway currently holds exemption authority to provide scheduled combination service in the Raleigh/Durham-St. Maarten/Cancun markets. See Order 95-10-13.

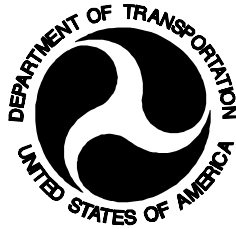
III. Pleadings: No answers were filed to Midway's application.

IV. Public Convenience and Necessity: The authority granted is consistent with the U.S.-Mexico Air Transport Agreement. As discussed in the text of this order, consistent with our standard practice to afford carriers the maximum operating flexibility possible, we will grant Midway the authority to integrate its Mexico authority with existing Midway certificate and exemption authority. The route integration authority is subject to the provisions of the aviation agreements between the United States and the foreign countries involved.

V. Fitness/Citizenship: Midway has previously been found to be a citizen of the United States and fit, willing, and able to provide interstate and overseas air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 93-11-30. Pursuant to its domestic certificate authority, Midway conducts interstate and overseas air transportation services similar in scope to the Raleigh/Durham-Cancun services proposed here. In addition, Midway has been found qualified to perform Raleigh/Durham-Cancun services under an exemption, (see Order 95-10-13), and pursuant to that exemption authority, Midway currently conducts foreign scheduled air transportation in the Raleigh/ Durham-Cancun market. No information has come to our attention which would lead us to question Midway's fitness to conduct the air transportation operations authorized here. Against this background, the Department has reviewed the carrier's proposal to conduct the Raleigh/ Durham-Cancun services pursuant to certificate authority, and has determined that it is fit to provide the proposed scheduled foreign air transportation.

VI. Terms, Conditions and Limitations: Standard Mexico certificate conditions. (See Order 89-9-36.) We will issue Midway a new certificate to reflect authority to serve the Raleigh/Durham-Cancun market and to include a standard route integration provision. As discussed in the text of this order, we will handle Midway's request for certificate authority to serve the Raleigh/Durham-St. Maarten market by separate order.

VII. Duration: Five years. 49 U.S.C. 41102(c).



**Experimental Certificate
of Public Convenience and Necessity
for**

Route 726

This Certifies That

MIDWAY AIRLINES CORPORATION

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 96-11-25
On October 31, 1996
Effective on January 1, 1997**

**Charles A. Hunnicutt
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Midway Airlines Corporation for **Route 726**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail over the following U.S.-Mexico route segment:

1. Between the terminal point Raleigh/Durham, North Carolina, and the terminal point Cancun, Mexico.

This authority is subject to the following terms, conditions, and limitations:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

*This certificate is issued to reflect (1) the award of new authority to serve the Raleigh/Durham-Cancun market; and (2) route integration authority.

(6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(7) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(8) The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements; and provided further, that (a) nothing in the award on the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in this certificate by virtue of the route integration authority granted here, but not being used, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(9) The holder shall file notice with the Department if it discontinues services on a route segment for 90 days or longer. This notice shall be given as soon as the decision to discontinue service (other than seasonally) is made, but in no case later than the 91st day of dormancy. Notices shall be filed in the form of a letter addressed to the U.S. Department of Transportation, U.S. Air Carrier Licensing Division, X-44, 400 Seventh Street, SW, Washington, DC 20590, and shall identify the dormant route segment, the certificate route number, and the date the 90th day of dormancy will or did occur.

(10) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(11) In the event that the holder commences operations for which it was found “fit, willing, and able,” and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective January 1, 1997; provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

The authority to serve segment 1 in this certificate shall continue in effect until January 1, 2002; notwithstanding the above, however, the authority to serve any segment shall expire (a) the 90th day after the holder discontinues service on that segment, or (b) the holder notifies the Department (as provided in this certificate) that the segment is dormant, whichever occurs earlier; unless the Department earlier suspends, modifies, or deletes the authority.